



Linda S. Adams
*Secretary for
Environmental Protection*

California Environmental Protection Agency

Air Resources Board • Department of Pesticide Regulation • Department of Toxic Substances Control
Integrated Waste Management Board • Office of Environmental Health Hazard Assessment
State Water Resources Control Board • Regional Water Quality Control Boards



Arnold Schwarzenegger
Governor

Certified Mail: 7003 1680 0000 6174 8173

December 19, 2006

Mr. Jeff Palsgaard, Director
Merced County Division of Environmental Health
777 West 22nd Street
Merced, CA 95340

Dear Mr. Jeff Palsgaard:

The California Environmental Protection Agency (Cal/EPA) and Department of Toxic Substances Control conducted a program evaluation of Merced County Environmental Health's Certified Unified Program Agency (CUPA) on Wednesday, November 29, 2006. The evaluation was comprised of an in-office program review and a field inspection. The State evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff, which includes identified deficiencies, preliminary corrective actions, and timeframes. Two additional evaluation documents are the Program Observations and Recommendations and the Examples of Outstanding Program Implementation.

The enclosed Summary of Findings is now considered final and based upon review; I find that Merced County Environmental Health's program performance is satisfactory with some improvement needed. To complete the evaluation process, please provide deficiency status reports to Cal/EPA of your progress toward correcting the identified deficiencies. Submit your deficiency status reports to JoAnn Jaschke every 90 days after the evaluation date. The first deficiency status report is due on February 27, 2007.

Cal/EPA also noted during this evaluation that Merced County Environmental Health has worked to bring about a number of local program innovations, including: taking criminal, civil, and administrative enforcement with fines totaling \$19,000 as well as developing a shelter-in-place and reverse 911 call out system in the event of a catastrophic release. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc: Please see next page.

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cc: Mr. William Peeler, Supervising Environmental Health Specialist (Sent Via Email)
Merced County Environmental Health
777 West 22nd Street
Merced, CA 95340

Mr. Mark Pear (Sent Via Email)
Department of Toxic Substance Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Mr. Kevin Graves (Sent Via Email)
State Water Resources Control Board
P.O. Box 944212
Sacramento, California 94244-2102

Mr. Charles McLaughlin (Sent Via Email)
Department of Toxic Substances Control
P.O. Box 806
Sacramento, CA 95812-0806

Ms. Vickie Sakamoto (Sent Via Email)
Office of the State Fire Marshal
P.O. Box 944246
Sacramento, California 94244-2460

Mr. Brian Abeel (Sent Via Email)
Governor's Office of Emergency Services
P.O. Box 419047
Rancho Cordova, California 95741-9047

Mickey Pierce (Sent Via Email)
Department of Toxic Substance Control
700 Heinz Avenue, Suite 210
Berkeley, California 94710-2721

Deficiencies and Corrective Actions

1. **Deficiency:** The CUPA is not, in all instances, documenting that all facilities that have received a notice to comply citing minor violations have returned to compliance within 30 days of notification.

CUPA Corrective Action: CUPA responds here

2. **Deficiency:** The CUPA is not fully regulating agricultural handlers (farms) under the business plan program.

CUPA Corrective Action: CUPA responds here

3. **Deficiency:** The CUPA is not fully regulating agricultural handlers (farms) under the hazardous waste program.

CUPA Corrective Action: CUPA responds here

4. **Deficiency:** In FY 04/05 and 05/06, the CUPA did not assess or collect the annual Cal/ARP state surcharge. The CUPA only collects the annual Cal/ARP state surcharge when the CUPA collects their County's annual Cal/ARP operating fee. The CUPA did not assess an annual Cal/ARP operating fee in FY 04/05 and 05/06, and therefore did not collect the annual Cal/ARP state surcharge. In FY 03/04 the CUPA collected \$200 in annual Cal/ARP state surcharges

CUPA Corrective Action: CUPA responds here



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION **SUMMARY OF FINDINGS**

CUPA: **Merced County Environmental Health**

Evaluation Date: **Wednesday, November 29, 2006**

EVALUATION TEAM

Cal/EPA: **JoAnn Jaschke and John Paine**

DTSC: **Mark Pear**

This Summary of Findings includes the deficiencies identified during the evaluation, observations and recommendations for program improvement, and examples of outstanding program implementation activities. The evaluation findings are preliminary and subject to change upon review by state agency and CUPA management. Questions or comments can be directed to JoAnn Jaschke at (916) 323-2204.

	<u>Deficiency</u>	<u>Preliminary Corrective Action</u>
1	<p>The CUPA is not, in all instances, documenting that all facilities that have received a notice to comply citing minor violations have returned to compliance within 30 days of notification. For example, in FY 05/06, 138 hazardous waste generator inspections were conducted, but only 104 RTC's were received. For example, in FY 04/05, 357 hazardous waste generator inspections were conducted, but only 233 RTC's were received. Lastly, for example, in FY 03/04, 315 routine hazardous waste generator inspections were conducted, but only 108 RTCs were received.</p> <p>Citation: HSC Chapter 6.11, Section 25404.1.2(c)</p>	<p>The CUPA shall immediately insure that all facilities are tracked to insure that all facilities that have returned to compliance either through an RTC certificate or a re-inspection report.</p>
2	<p>The CUPA is not fully regulating agricultural handlers (farms) under the business plan program. Under this program, agricultural handlers (farms) are to be regulated or properly exempted from the provisions of the program.</p> <p>The CUPA identified this as a deficiency in their FY 05/06 self-audit. Additionally, the CUPA developed</p>	<p>By December 1, 2007, the CUPA, in coordination with the County Agricultural Commissioner, will identify those agricultural handlers that may be subject to the business plan program, and the CUPA will take steps to either regulate those businesses or properly exempt them from the</p>

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	<p>an action plan, and the CUPA is starting to implement the plan in order to address this.</p> <p>Citation: HSC Chapter 6.95, Section 25503.5(c)5</p>	<p>provisions of the business plan program.</p>
3	<p>The CUPA is not fully regulating agricultural handlers (farms) under the hazardous waste program.</p> <p>Citation: HSC Chapter 6.5, Section 25150</p>	<p>By December 1, 2007, the CUPA will identify those agricultural handlers that may be subject to the hazardous waste program, and the CUPA will take steps to regulate those businesses.</p>
4	<p>In FY 04/05 and 05/06, the CUPA did not assess or collect the annual Cal/ARP state surcharge. The CUPA only collects the annual Cal/ARP state surcharge when the CUPA collects their County's annual Cal/ARP operating fee. The CUPA did not assess an annual Cal/ARP operating fee in FY 04/05 and 05/06, and therefore did not collect the annual Cal/ARP state surcharge. In FY 03/04 the CUPA collected \$200 in annual Cal/ARP state surcharges.</p> <p>Citation: CCR Title 27, Section 15210(c)</p>	<p>By April 1, 2007, the CUPA will collect the FY 06/07 annual Cal/ARP state surcharge.</p>

CUPA Representative Bill Peeler original signed
(Print Name) (Signature)

Evaluation Team Leader JoAnn Jaschke original signed _____
(Print Name) (Signature)

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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section simply address those areas not specifically required of the CUPA by regulation or statute and are provided for continuous program improvement only.

1. **Observation:** The CUPA developed and adopted a new ordinance for tattoo/body piercing and cosmetics businesses that establish guidelines for the businesses on training staff, registering their facilities, and properly managing their hazardous waste.
2. **Observation:** The CUPA writes thorough self-audits that address all of the required elements as well as including excellent detail on their annual inspection summary report for the number of routine inspections that return to compliance.
3. **Observation:** The inspection reports reviewed lacked any detailed narrative for the facilities inspected.

Recommendation: Develop the narrative portion of the inspection report so that a reviewer of the report may gain an insight into the type of historical operation occurring out at the site.

4. **Observation:** Merced County Department of Public Health expended a considerable amount of time, manpower, and resources in developing a civil enforcement case against Pacesetters Industries, Inc. for the abandonment of hazardous waste/material.

Recommendation: Improve coordination with other County Departments, Divisions, and Offices (Including County Counsel) in order to determine early on during an investigation as to whether Merced County Department of Public Health should be proceeding with a case. In the future, a mechanism should be developed notifying the Merced County Department of Public Health in advance as to when bankruptcies are occurring so that it will not be impeded by the claims bar date. Also, you may wish to contact Cal-EPA Office of the Secretary to determine whether an arrangement may be made to share notices of bankruptcies affecting Merced County.

5. **Observation:** The CUPA inspector conducted an adequate inspection. Record keeping relating to hazardous waste including manifests, contingency plan, training plan, training records, notifications, operating instructions were reviewed. Inspector inadvertently overlooked asking facility personnel to provide records to demonstrate that the facility was in compliance with all applicable industrial waste discharge requirements issued by the agency operating the publicly owned treatment works into which the wastes are discharged as required by HSC 25201.5(d)(6).
6. **Observation:** The inspector did not at first access DTSC's Hazardous Waste Tracking System which would have enabled the inspector to obtain a list of manifests which should be maintained by the facility on site for review.

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Recommendation: Please access the Department's Hazardous Waste Tracking System for future generator inspections to determine waste profiles and generation status from previous manifests sent. In addition, remember to obtain a list of manifests and selectively compare these to those found on site at the facility for the past three years as required by CCR Title 22 Section 66262.40.

7. **Observation:** There is a difference of approximately 300 facilities between what the CUPA has reported in its latest inspection summary report for FY 05/06 and the total number of businesses manifesting off hazardous waste with active EPA ID numbers listed in the Department's Hazardous Waste Tracking System.

Recommendation: The CUPA should reconcile its hazardous waste generator data base providing a total of 570 facilities with that of the Department of Toxic Substances Control's Hazardous Waste Tracking System indicating a total of 896 facilities.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. The Merced County Department of Public Health has developed an informative website for the public in providing forms, a fee schedule, other website references, answers to frequently asked questions, a household hazardous waste collection event schedule, and references to the federal, state and local environmental laws, regulations, and ordinances.
2. The Merced County Department of Public Health has established both temporary and permanent household hazardous waste collection centers which shall greatly aid in diverting household hazardous waste from CESQGs and personal residences to the municipal landfills.
3. The Merced County Department of Public Health referred a criminal enforcement case to the DA concerning Mr. Quirino Sanchez for the illegal transportation, storage, and disposal of spent, lead-acid storage batteries. Responding to a complaint, personnel from the Merced County Department of Public Health determined that environmental impairment of the site, where Mr. Quirino Sanchez conducted his business, had occurred. The Honorable Hugh Flanagan, Judge of the Superior Court of California, sentenced Mr. Sanchez to 6 months in jail. Additionally, he was ordered to pay fines and restitution in the amount of \$7000.
4. The Merced County Department of Public Health has taken civil enforcement against Loredos Classic on 14th Street in the City of Merced for continual nonpayment of CUPA fees. The County filed a court case and the business was fined \$10,000.
5. The Merced County Department of Public Health took administrative action against Don Dickey of Dickey 76 for having no permit to operate. Fees, penalties, and surcharges totaling \$2,000 were collected from the UST operator/hazardous waste generator.
6. The CUPA is working with the City of Gustine's Police Department, the Livingston Police Department and two facilities on developing a shelter-in-place and reverse 911 call out system in the event of a catastrophic release.
7. The CUPA does a commendable job implementing several other programs and providing technical assistance within those program areas. In particular, the CUPA enforces the State Medical Waste Management Act, oversees 86 sites that fall under the Local Oversight Program (cleanup of soil and groundwater from leaking UST sites), operates a PHHWCF-PBR site (which is also a certified oil collection center registered with the California Integrated Waste Management Board), conducts temporary one day HHW collection events in the cities of Gustine, Los Banos, Atwater, Dos Palos, and Mariposa County, provides curbside oil/filter pickup program for all County residents, has a 24/7 on-call hazmat response staff member available for hazmat response, drug labs, and complaints, and enforces AB-1078 (the Meth Contaminated Property Cleanup Act).